IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 6TH FEBRUARY 2007 / 17TH MAGHA 1928

WP(C).No. 27189 of 2006(J)

PETITIONER:

BHARTI AIRTEL LIMITED FORMERLY
BHARTI TELE-VENTURES LIMITED, "BHARTI TOWERS",
S.A.ROAD, KADAVANTHRA, KOCHI-682 020
REPRESENTED BY ITS HEAD-LEGAL,
SRI.P.JAYABAL MENON.

BY ADV. SRI.SANTHOSH MATHEW
SRI.SATHISH NINAN

RESPONDENTS:

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1. THE OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS, THIRUVANANTHAPURAM.

2. STATE OF KERALA REPRESENTED BY THE SECRETARY TO LOCAL SELF GOVERNMENT DEPARTMENT, GOVT. SECRETARIAT, THIRUVANANTHAPURAM.

3. SECRETARY TO GOVERNMENT, URBAN AFFAIRS, GOVT.SECRETARIAT, THIRUVANANTHAPURAM.

4. THE DIRECTOR OF URBAN AFFAIRS, THIRUVANANTHAPURAM.

5. THE DIRECTOR OF MUNICIPALITIES, THIRUVANANTHAPURAM.

6. THE DIRECTOR OF PANCHAYATS, THIRUVANANTHAPURAM.

R2 TO R6 BY GOVT.PLEADER SMT.T.B.RAMANI.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.27189/06

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – PHOTO COPY OF ORDER DT.2.8.06 BY R1.

EXT.P2 – TRUE COPY OF LETTER DT.23.8.06 ISSUED BY THE DIRECTOR OF URBAN AFFAIRS

EXT.P3 TRUE COPY OF JUDGMENT DT.9.1.06 IN WPC.179/06

EXT.P4 – TRUE COPY OF JUDGMENT DT.12.10.06 IN WPC.18242 & 16724/06

EXT.P5 – PHOTO COPY OF ORDER DT.11.8.06 IN WPC.21523/06

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C) No.27189 OF 2006

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DATED THIS THE 6TH FEBRUARY, 2007

J U D G M E N T

It is conceded before me that the issue which arises for consideration in this case is covered by my judgment in W.P.(C)No. 21528 of 2006. Under these circumstances, Ext.P1 order passed by the Ombudsman is quashed. So also, Ext.P2, the consequential order passed by the 4th respondent-Director of Urban Affairs is quashed. It is made clear that all the observations and directions in para.8 of the judgment in **Reliance Infocom Ltd. v. Chemanchery Grama Panchayat** (2006 (4) KLT 695), which I quote as follows, will be binding on the writ petitioner also:

> "We notice that the Panchayat has as on today no scientific data or relevant materials to cancel the licence already granted on the ground that the installation of the Tower would cause any health hazards. Licence granted has been cancelled by the Panchayat based on an apprehension that the radiation may cause health hazards to the people of the locality. Further Ext.P5 also says that installation of generator would cause sound pollution. Petitioner has not installed any generator as on today and

if the installation of generator would cause any sound pollution, evidently Pollution Control Board can give appropriate direction and the petitioner will have to obtain necessary consent from the Pollution Control Board for installation of generators, so that it would not cause any sound pollution. So also, if the installation of Tower and the emission of electromagnetic waves causes any air pollution, affecting human health, the Pollution Control Board can take appropriate measures under Air (Prevention and Control of Pollution) Act, 1991."

The Writ Petition is allowed as above. The parties will bear their respective costs.

(PIUS C. KURIAKOSE, JUDGE)

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